

6/01/04

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3611

PATENT
57111-5072

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:
Mark Vincent SHOEN

Group Art Unit: 3611
Examiner: Yeagley, D.

Serial No. 09/557,459

Filed: April 24, 2000

For: FENDER HAVING OFFSET LIGHT
HOUSING

CERTIFICATE OF MAILING
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail Receipt No. EV272831238US in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on May 28 2004 by Bobbie-Jean Corbin
Bobbie-Jean Corbin

RESPONSE TO NOTICE OF NON-COMPLIANCE, DATED MAY 14, 2004

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Sir or Madam:

In response to the Notice of Non-Compliance, dated May 14, 2004, Applicant submits herewith a revised Appeal Brief for the above-referenced application. To address the issues raised by the Notice, Applicant has amended the brief. The amendments are summarized as follows:

1. Under "Status of the Claims" Applicant has now indicated that claims 25 and 26 have been withdrawn and that claims 4, 5, 8, 14, 18, 21 and 22 have been canceled.
2. The section "Related Appeals and Interferences" has been revised to indicate "None."
3. Under "Grouping of the Claims," claims 37 and 38 have now been separately grouped from claim 36 because claims 37 and 38 are separately argued from claim 36 in addressing the Examiner's rejection based on Poveromo '644 and Poveromo '749.

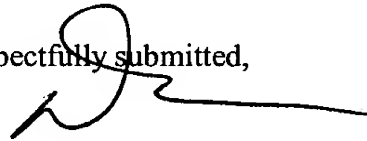
4. In the Argument section, Applicant has more clearly indicated where the various claim groupings are separately argued. In this regard, it should be appreciated that the brief is structured so that the issues and corresponding argument headings are framed in the same manner as they were framed by the Examiner in the final office action, i.e. by the reference combinations. However, the patentable features that distinguish each claim grouping from one another are not necessarily implicated by every combination of references asserted by the Examiner. As a result, each and every argument section does not include separate arguments to support the patentability of each claim grouping. However, the features that distinguish the claim groupings are implicated by Applicant's response concerning at least one reference or combination thereof, and Applicant has revised the brief to more clearly indicate as much.

If further clarification is required, the Supervisory Primary Examiner is invited to contact Applicant's attorney at the number below.

Date

5/27/04

Respectfully submitted,



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Bobbie Jean Corbin

Mail Stop Appeal Brief-Patents
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Dear Sir/Madam:

Attached are the following:

- 1) Response to Notice of Non-Compliance dated May 14, 2004;
- 2) Revised Appeal Brief (in triplicate); and
- 3) Return Postcard.

Date: 5/28/04

Respectfully submitted,

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Bobbie Jean Corbin

REVISED APPEAL BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This revised Appeal Brief is being filed pursuant to the Notification of Non-Compliance With 37 C.F.R. 1.192(c) mailed on May 14, 2004. The appropriate fees were already submitted at the time the original brief was filed. However, if the fees paid to date are deemed to be insufficient, authorization is hereby given to charge any deficiency (or credit any balance) to the undersigned deposit account 10-0440.

This is an appeal from the decision dated February 3, 2003 finally rejecting claims 1-3, 6, 7, 9, 17, 29-31 and 39 under 35 U.S.C. § 103(a) as being unpatentable over Whitton, U.S. Patent No. 1,440,516 ("Whitton") in view of Caponi, U.S. Patent No. 2,001,705 ("Caponi"); finally rejecting claims 1-3, 6, 9-13, 15-17, 19, 20, 23, 24 and 27-39 under 35 U.S.C. § 103(a) as being unpatentable over Poveromo, U.S. Patent No. 4,442,644 ("Poveromo '644") in view of Poveromo, U.S. Patent No. 4,395,749 ("Poveromo '749"); finally rejecting claims 32 and 33 under 35

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U.S.C. § 103(a) as being unpatentable over Whitton as modified by Caponi in view of Hardwick, U.S. Patent No. 4,027,808 ("Hardwick"); and finally rejecting claims 34-38 under 35 U.S.C. § 102(b) as being anticipated by Whitton.

REAL PARTY IN INTEREST

The real party in interest is U-Haul International, Inc., the assignee of the subject application.

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

Claims 25 and 26 are withdrawn. Claims 4, 5, 8, 14, 18, 21, and 22 have been canceled. Claims 1-3, 6, 7, 9-13, 15-17, 19, 20, 23-24 and 27-39 are pending in the application, have been finally rejected, and are the subject of this appeal.

STATUS OF AMENDMENTS

Claims 1-3, 6, 7, 9-13, 15-17, 19, 20, 23-24 and 27-39 have not been amended after the final rejection of February 3, 2003.

SUMMARY OF THE INVENTION

A trailer or tow dolly typically includes one or more pairs of wheels and a plurality of fenders that at least partially enclose the wheels of the trailer. The fenders typically have a substantially convex or square cornered shape. A light housing mounted on the fender or the top inner corner of a conventional fender comes into closest proximity with the cargo--for example, an automobile--being transported by the trailer or tow dolly. To avoid damage to the cargo, fender, or light housing, the tow dolly or trailer width must provide sufficient clearance between the fender and the cargo. Because of the expense involved in using wider, heavier

trailers or tow dollies to provide the required clearance, a need exists for a fender that increases the width of the load able to be carried thereon without increasing the overall width of the trailer or tow dolly. A need also exists for a tow dolly and trailer that includes such fenders (page 1, lines 11-21; and page 2 lines 22-26).

The present invention fulfills these needs. Without limiting the scope of the claimed inventions in any way, the independent claims on appeal are summarized as follows: Independent claims 1, 38 and 39 are directed to a fender comprising a top portion with a clearance increasing portion depending downwardly from an inner edge of the top portion. The claimed fender further comprises a light housing mounted to a curved surface of the top portion and offset from the fender's longitudinal mid-line. The clearance increasing portion depends downwardly from the inner surface of the top portion at a first non-zero acute angle. An inner wall depends downwardly from the clearance increasing portion at a second non-zero angle.

Independent claims 17, 34 and 35 are directed to a fender comprising a top portion with a concave clearance increasing portion depending therefrom.

Independent claim 28 is directed to a fender having a longitudinal mid-line and a light housing offset therefrom. The fender includes a downwardly, radially curved top portion and a clearance increasing portion depending downward from the inner edge of the top portion a first non-zero acute angle. An inner wall depends downwardly from the clearance increasing portion at a second non-zero acute angle. An outer wall depends downwardly from the outer edge of the top portion, such that the bottom edges of the outer wall, inner wall and clearance increasing portion all lie in a common plane.

Independent claim 36 is directed to a fender comprising a top portion having a continuously curved upper surface from which a clearance increasing portion depends downwardly at a first non-zero acute angle in a first plane. An inner wall depends downwardly from the clearance increasing portion at a second non-zero acute angle in a second plane, such that the first and second planes are non-

coplanar and the top portion and inner wall are oriented substantially perpendicularly. Independent claim 37 is directed to a fender having a uniform cross-section and recites similar limitations.

ISSUES

1. Is the subject matter of claims 1-3, 6, 7, 9, 17, 29-31 and 39 obvious under 35 U.S.C. § 103(a) over Whitton in view of Caponi?

2. Is the subject matter of claims 1-3, 6, 9-13, 15-17, 19, 20, 23, 24 and 27-39 obvious under 35 U.S.C. § 103(a) over Poveromo '644 in view of Poveromo '749?

3. Is the subject matter of claims 32 and 33 obvious under 35 U.S.C. § 103(a) over Whitton as modified by Caponi in view of Hardwick?

4. Does Whitton disclose every limitation of claims 34-38, thereby anticipating them under 35 U.S.C. § 102(b)?

GROUPING OF THE CLAIMS

The grouping of claims is as follows:

Claims 1, 2-3, 6-7, 9-13, and 15-16, 19, 23 and 27 (fender with light housing attached to top surface of fender and offset from fender midline away from a clearance increasing portion);

Claims 20 and 24 (tow dolly having a fender with offset light housing);

Claims 17 and 29-31 (concave clearance increasing portion depending downwardly from inner edge of top portion of fender at first non-zero acute angle and inner wall depending downwardly from clearance increasing portion at second non-zero acute angle);

Claim 28 (fender with offset light housing having top portion, inner wall and clearance increasing portion with co-planar bottom edges);

Claim 32 (top portion of fender comprises a substantially flat middle section and two curved end sections);

Claim 33 (top portion of fender comprises a plurality of planar sections);

Claims 34-35 (fender with concave clearance increasing portion depending downwardly from inner edge of top portion of fender);

Claim 36 (fender with continuous curved upper surface and clearance increasing portion depending downwardly from inner edge of top portion of fender at first non-zero acute angle and inner wall depending downwardly from clearance increasing portion at second non-zero acute angle)

Claims 37-38 (fender with uniform cross section and clearance increasing portion depending downwardly from inner edge of top portion of fender at first non-zero acute angle and inner wall depending downwardly from clearance increasing portion at second non-zero acute angle);

Claim 39 (fender with light housing offset from fender mid-line, clearance increasing portion depending downwardly from inner edge of top portion of fender at first non-zero acute angle, and inner wall depending downwardly from clearance increasing portion at second non-zero acute angle).

The claims do not stand or fall together. Each of the foregoing groupings will be argued separately below.

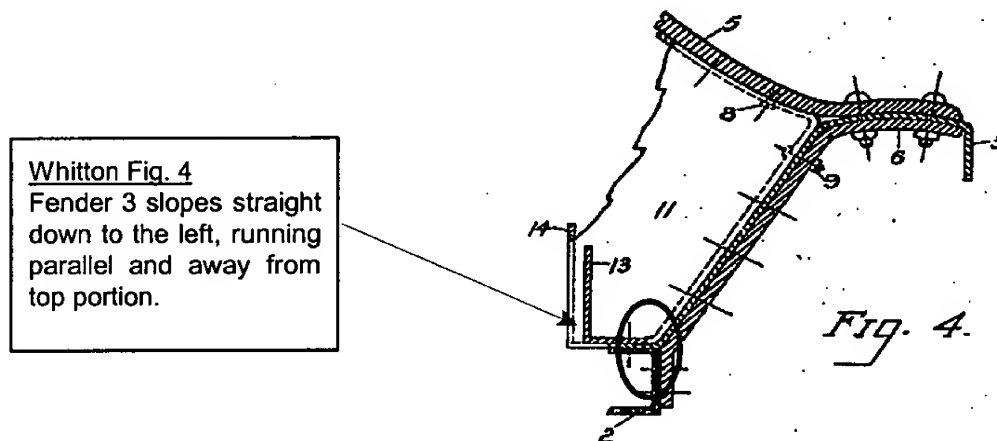
ARGUMENT

1. Whitton Does Not Anticipate Claims 34-38 Under 35 U.S.C. § 102(b)

The Examiner asserts that claims 34-38 are anticipated by Whitton under 35 U.S.C. § 102(b). "For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element must be identically shown in a single reference." In re Bond, 910 F.2d 831 (Fed. Cir. 1990). However, Whitton fails to disclose every

element of claims 34-38 and is not anticipatory.

First, Whitton fails to disclose a fender comprising an inner wall depending downwardly at a second non-zero acute angle from a clearance increasing portion, as required by claims 36, 37, and 38.¹ The Examiner asserts that Whitton discloses this feature by characterizing elements 3 and 6 as the claimed fender. However, Whitton identifies numeral 3 as "the front fenders" and numeral 6 as "their supports." Whitton at 2:70-80 and 85 and Fig. 4. As Figure 4 indicates, the support and fender are distinct components which actually are oriented perpendicularly to one another adjacent the vehicle's axle 2.



^{1/} Claims 36-38 are argued together here because their common features are distinguishable over Whitton. However, claim 36 is grouped separately from claims 37-38 because the patentably distinct features of the claim groupings are relevant to the Examiner's rejection based on Poveromo '664 and Poveromo '749, as explained below.

Referring to Fig. 4 from Whitton, the Examiner contends that the straight leg depending from the left-hand side of the top portion of Whitton's fender is a clearance increasing portion. Even were that characterization correct, the disclosed fender still lacks an inner wall depending downwardly from the clearance increasing portion, let alone one that depends downward at a non-zero acute angle. The only portion of Whitton's fender which could conceivably correspond to the claimed inner wall runs parallel to and away from the top portion of the fender, as seen above.

Second, claims 34 and 35 are grouped separately from claims 36 and 37-38 because claims 34 and 35 include the additional patentable limitation "wherein said clearance increasing portion is concave." Again referring to Whitton Figure 4, the only portion of the disclosed fender which could correspond to the claimed clearance increasing portion is a indisputably straight. Thus, Whitton fails to disclose a concave clearance increasing portion, and therefore, does not anticipate claims 34-35.

2. The Subject Matter of Claims 1-3, 6-7, 9, 17, 29-31 and 39 Is Not Obvious Under 35 U.S.C. § 103(a) Over Whitton In View of Caponi

The Examiner asserts that claims 1-3, 6-7, 9, 17, 29-31 and 39 are

obvious over Whitton in view of Caponi.² Claim 39 requires a clearance increasing portion depending downwardly from the top portion of a fender at a first non-zero acute angle in a first plane, as well as an inner wall depending downwardly from the clearance increasing portion at a second non-zero acute angle in a second plane. Caponi contains no disclosure of a clearance increasing portion and and/or inner wall geometry. Nor has the Examiner asserted that it does. Moreover, as explained above, the only portion of Whitton which could conceivably correspond to the claimed inner wall runs parallel to and away from the top portion of the fender. Thus, Whitton also fails to disclose the claimed clearance increasing portion and inner wall geometry.

Claim 1 recites the features of claim 39 described above. However, claim 1 is grouped separately from claim 39 because it additionally recites "a fender having a longitudinal midline, and a light housing mounted to said fender offset from said midline" such that the "housing is offset from the midline in a direction away from the clearance increasing portion." Neither Whitton nor Caponi alone or in combination teach or suggest a light housing that is mounted to a fender and offset from the fender's longitudinal midline away from a clearance increasing portion. The Examiner contends that Whitton's support bar 5 and front plate 10 comprise a light housing. Even assuming that were true, Whitton fails to

^{2/} Claims 1, 17 and 39 are independent claims. Claims 2-3, 6-7 and 9 depend from Claim 1. Claims 29-31 depend from Claim 17.

disclose a light housing mounted to a fender and offset from the fender's midline in a direction away from a clearance increasing portion. Similarly, Caponi contains no disclosure of a light housing offset from a fender midline away from a clearance increasing portion. Thus, the combined references lack the patentable features that are common to claims 1 and 39 as well as those that are additionally recited in claim 1 and the claims grouped therewith.

The combined references fail to teach or suggest each limitation of claims 1 and 39 and do not render the claims obvious. See Litton Systems, Inc. v. Honeywell, Inc., 87 F.3d 1559, 1569 (Fed. Cir. 1996) (rejecting defendants' obviousness challenge on the grounds that "[t]he prior art simply does not contain many limitations in the claimed method"). Claims 2, 3, 6, 7 and 9 depend from Claim 1 and are, therefore, patentable as well.

Claim 17 is grouped separately from Claims 1 and 39 because in addition to the foregoing, it is further patentable over Caponi in view of Whitton based on its requirement that "said clearance increasing portion is concave." As explained above, Whitton discloses a fender with a straight portion depending downward along a straight line. "Concave" is defined as "curved like the inner surface of a sphere."³ The decline of the Whitton fender is not curved and cannot reasonably be considered concave. Caponi similarly fails to disclose a concave clearance increasing portion. Because the combined references fail to teach or

^{3/} The American Heritage Dictionary of the English Language, Fourth Edition.

suggest a concave clearance increasing portion, they cannot render Claim 17 obvious. Claims 29-31 are grouped with and depend from Claim 17 and are, therefore, patentable as well.

Notwithstanding the foregoing, the Examiner has provided no motivation or suggestion to combine the teachings of Whitton and Caponi. "When an obviousness determination is based on multiple prior art references, there must be a showing of some teaching, suggestion, or reason to combine the references." Winner International Royalty Corp. v. Wang, 202 F.3d 1340, 1348 (Fed. Cir. 2000) (citations omitted). See also In re Stencel, 828 F.2d 751, 755 (Fed. Cir. 1987) ("Nor is obviousness established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion that the combination be made").

"Numerous decisions emphasize that such a combination of reference teachings is improper unless the prior art suggests such a combination."⁴ For example, in In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990), the Court held that the PTO erred in rejecting the claimed invention as an obvious combination of the teachings of two prior art references when the prior art provided no teaching, suggestion or incentive supporting the combination. Id. at 834-35.

Here, the Examiner asserts that it would have been obvious to "have modified the fender of Whitton and attached a light housing . . . such as shown by

⁴/ Chisum on Patents §5.04[1][e].

Caponi . . . simply as an alternate mounting location for a head lamp or as an additional turn signal light apparatus for added safety" Office Action, dated February 3, 2003 at 4. However, the Examiner fails to describe why the claimed invention would have been chosen "for added safety" or provide any explanation as to how the prior art purportedly identifies safety considerations that would have motivated one of ordinary skill in the art to combine Caponi and Whitton to obtain the present invention. "The absence of such a suggestion [to combine] is dispositive in an obviousness determination." Gambro Lundia AB v. Baxter Healthcare Corp., 110 F.3d 1573, 1579 (Fed. Cir. 1997). Moreover, neither reference discusses the fender design needs addressed by the present invention--i.e., the need to increase the width of a load to be carried by a trailer or tow dolly without increasing the trailer or tow dolly width--further indicating that there is no motivation or suggestion to combine them. "The mere fact that the prior art could be modified in the manner proposed by the Examiner would not have made the modification obvious unless the prior art suggested the desirability of the modification." Ex parte Dussaud, 7 USPQ2d 1818, 1820 (Bd. App. & Int'f 1988).

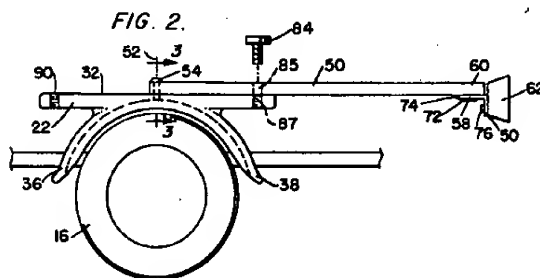
3. The Subject Matter of Claims 1-3, 6, 9-13, 15-17, 19, 20, 23, 24 and 27-39 Is Not Obvious Under 35 U.S.C. § 103(a) Over Poveromo '664 In View of Poveromo '749

The Examiner contends that claims 1-3, 6, 9-13, 15-17, 19, 20, 23, 24 and 27-39 are obvious under 35 U.S.C. § 103(a) over Poveromo '664 in view of

Poveromo '749.⁵ Poveromo '644 discloses a boat trailer with a fender 22 (shown in Figure 4) having a base 32 integrally constructed on top of a semi-circular portion 34. The Poveromo device needs base 32 to support bar 50, which ultimately supports a lamp 62 thereon.

Claim 1 recites a "light housing attached to the curved surface of the top portion" of the fender. The combined teachings of Poveromo '644 and Poveromo '749 do not teach or suggest this limitation.

Poveromo '644 does not disclose a lamp housing attached to the curved surface of the top portion of a fender. Instead, as shown in Figure 2 from Poveromo '644 (below), the lamp 62 is attached to the end of a bar 50 which is attached to a base portion 32, not the semi-circular curved surface of the fender.



Poveromo '644 Fig. 2

Lamp 62 is attached to bar 50, not to curved surface of fender 20 (numeral not shown in figure).

5/ Claims 2-3, 6, 9-13, 15-16, 19-20, 23-24 and 27 depend --directly or indirectly--from independent Claim 1. Claims 29-33 depend from independent Claim 17.

Similarly, in Figure 4 of Poveromo '749, the lamp 78 is attached to a hollow bar 90 which is attached to a straight solid bar 82 that is fastened to the fender. Again, there is no teaching or suggestion to attach a light housing to the curved surface of the top portion of a fender. As a result, the combination of the Poveromo references fail to teach all of the recited elements and does not render Claim 1 obvious. See Litton Systems, Inc. v. Honeywell, Inc., 87 F.3d 1559, 1569 (Fed. Cir. 1996). Claims 2-3, 6, 9-13, 15-16, 19-20, 23-24 and 27 depend from Claim 1 and are allowable on that basis as well.

Claims 20 and 24 are grouped separately from Claim 1 because they recite use the fender of Claim 1 in a tow dolly. None of the cited references teach or suggest the use of the claimed fender in a tow dolly or contain any disclosure concerning tow dollies. Thus, Claims 20 and 24 are allowable on this additional basis as well.

As explained previously, claims 17, 34 and 35 recite the use of a concave clearance increasing portion. Neither Poveromo reference discloses the use of such a clearance increasing portion, and the Examiner has not contended that either reference does. Thus, claims 17, 34 and 35 are patentably distinguishable from the Poveromo references, as are claims 29-33 which depend from Claim 17.⁶

^{6/} Claims 17, 32-33 and 34-35 are argued together in this section because their common features are distinguishable from the combined Poveromo references. However, they are

Claim 28 is grouped separately from the foregoing claims because it additionally requires that the entire bottom edge of the clearance increasing portion, the entire bottom edge of the inner wall, the entire bottom edge of the top portion, and the entire bottom edge of the outer wall all lie in a common plane. Neither of the Poveromo references nor Whitton disclose the claimed co-planar arrangement of these components.

Claim 36 recites a fender comprising a "top portion having a continuous curved upper surface and opposed inner and outer edges." As the Examiner concedes, Poveromo '664 "show[s] the top portion [of the fender] with a flat middle section," 2/11/03 Office Action at 5, as does Poveromo '749. *Id.* at 6. Thus, the combined Poveromo references fail to teach the limitations of claim 36.

Notwithstanding the foregoing, the Examiner has provided no motivation or suggestion to combine the two Poveromo references. He has characterized the combination of the references "as a matter of design choice dependent only upon users preference and the vehicles intended use," without providing any suggestion to combine. In the absence of such a suggestion, such a combination is improper. *See Ex parte Dussaud*, 7 USPQ2d 1818, 1820 (Bd. App. & Int'f 1988); *Winner International Royalty Corp. v. Wang*, 202 F.3d 1340,

grouped separately because they have patentably distinct features that led the Examiner to reject claims 34 and 35, but not claim 17, based on Whitton alone and to reject claims 32-33, but not claim 17 or claims 34-35, based on the combination of Whitton, Caponi, and Hardwick.

1348 (Fed. Cir. 2000) (citations omitted). See also In re Stencel, 828 F.2d 751, 755 (Fed. Cir. 1987).

Moreover, claims 37 and 38 recite a fender having a uniform cross-section. The cross-section of Poveromo '664 is not uniform, due to the integral horizontal base 32. Moreover, the stated object of the Poveromo '664 invention is "to construct a fender having a horizontal base portion and a vertical wall portion for supporting a bar to which there is attached a trailer lamp" as well as to provide "a unitary fender". Poveromo '664 at 1:63-66 and 2:1-2. Thus, in order to combine the Poveromo references to obtain the claimed invention the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the prior art] as well as a change in the basic principles under which [the prior art] construction was designed to operate." Application of Ratti, 270 F.2d 810, 813 (C.C.P.A. 1959). As a result, combining the references to reject the claims as obvious is improper. Id.

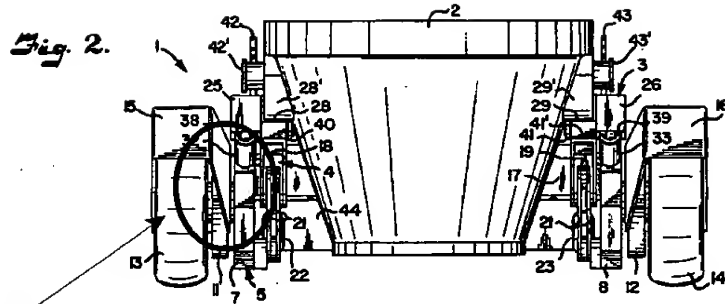
4. The Subject Matter of Claims 32 and 33 Is Not Obvious Over Whitton As Modified By Caponi In View of Hardwick

The Examiner asserts that claims 32 and 33 are obvious under 35 U.S.C. § 103(a) over Whitton as modified by Caponi in view of Hardwick. The Caponi and Whitton references are described above. Figure 2 from Hardwick is shown below. Hardwick discloses a receptacle transporting vehicle having walking beams 11 and 12 to which fenders 15 and 16 are mounted.

Claims 32 and 33 depend from Claim 17. Even in combination, the asserted references fail to teach all of the elements of Claim 17.⁷ First, none of the asserted references discloses an inner wall depending downwardly at a non-zero acute angle from a clearance increasing portion, as required by claims 32 and 33. Nor do any of the asserted references disclose a concave clearance increasing portion depending downwardly from the inner edge of the top portion of a fender. As explained above, the only portion of Whitton which could conceivably correspond to the claimed inner wall runs parallel to and away from the top portion of the fender. Caponi contains no disclosure of the claimed clearance increasing portion or inner wall depending downwardly therefrom. As explained above, neither Caponi nor Whitton disclose a concave clearance increasing portion, as is also required by claim 17 (and therefore, claims 32 and 33).

Figure 2 from Hardwick is reproduced below. As illustrated, Hardwick discloses a fender 15 that includes a sloped portion running downward from the fender's top surface.

^{7/} Claims 32 and 33 are distinguished from Hardwick based on the features of claim 17, from which they depend. However, claim 17 is grouped separately from claims 32 and 33 because the Examiner applied the combination of Hardwick, Whitton and Caponi against claims 32 and 33, but not against claim 17.



Hardwick Fig. 2
Fender 15 (circled) slopes straight down and to the right, but has no inner wall depending downwardly from a clearance increasing portion at a second non-zero acute angle

However, even assuming that the sloped portion could constitute a clearance increasing portion, there is no disclosure of an inner wall depending downwardly from a clearance increasing portion at a second, non-zero acute angle. Moreover, the sloped portion of Hardwick's fender is indisputably straight. Therefore, as with Whitton and Caponi, Hardwick fails to disclose the claimed concave clearance increasing portion. Thus, even in combination, the asserted references fail to disclose all of the elements of claims 32 and 33, and cannot render them obvious.

Notwithstanding the foregoing, the Examiner has provided no motivation or suggestion in the prior art to combine the three asserted references, contending that it is merely a matter of "design choice." In the absence of such a

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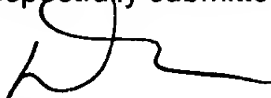
suggestion, such a combination is improper.

CONCLUSION

Based on the foregoing, it is respectfully requested that the rejection of claims 1-3, 6, 7, 9-13, 15-17, 19-20, 23-24 and 27-39 be withdrawn and that the claims be allowed.

Respectfully submitted,

5/27/04
Date



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APPENDIX

1. (Thrice Amended) A fender having a longitudinal midline, and a light housing mounted to said fender offset from said midline, said fender further comprising:

a) a top portion having a curved surface and opposed inner and outer edges, and wherein the light housing is attached to the curved surface of the top portion;

b) a clearance increasing portion depending downwardly from said inner edge of said top portion at a first non-zero acute angle in a first plane, wherein the light housing is offset from the midline in a direction away from the clearance increasing portion, and

c) an inner wall depending downwardly from said clearance increasing portion at a second non-zero acute angle in a second plane, wherein said top portion and said inner wall are oriented substantially perpendicularly, and wherein the first and second plane are non-coplanar.

2. (Amended) The fender of claim 1 wherein said light housing comprises a base portion that conforms to at least a portion of said curved surface of said fender.

3. The fender of claim 2 wherein said light housing further comprises a raised portion adapted to receive a light fixture.
6. (Twice Amended) The fender of claim 1 wherein said first and second non-zero acute angles are each between about 1° and about 89°.
7. (Twice Amended) The fender of claim 1 wherein said first and second non-zero acute angles are each between about 40° and about 50°.
9. (Amended) The fender of claim 1 further comprising an outer wall extending downwardly from said outer edge of said top portion.
10. (Amended) The fender of claim 1 wherein said top portion further comprises a substantially flat middle section and two curved end sections.
11. (Amended) The fender of claim 1 wherein said top portion comprises a plurality of planar sections.
12. (Twice Amended) The fender of claim 11 wherein said first and second non-zero acute angles are each between about 1° and about 89°.

13. (Twice Amended) The fender of claim 11 wherein said first and second non-zero acute angles are each between about 40° and about 50°.

15. (Amended) The fender of claim 12 further comprising an outer wall, wherein said outer wall extends from said top portion.

16. The fender of claim 15 wherein said top portion is curved in a longitudinal direction.

17. (Amended) A fender having a longitudinal midline, and a light housing mounted to said fender offset from said midline, said fender further comprising

a) a top portion having opposed inner and outer edges, wherein said light housing is attached to said top portion,

b) a clearance increasing portion depending downwardly from said inner edge of said top portion at a first non-zero acute angle, wherein said clearance increasing portion is concave, and

c) an inner wall depending downwardly from said clearance increasing portion at a second non-zero acute angle, wherein said top portion and said inner wall are oriented substantially perpendicularly, and wherein said angle formed by said top portion and said clearance increasing portion, and the angle

formed by said clearance increasing portion and said inner wall add up to approximately 90°.

19. A trailer comprising the fender of claim 1.

20. A tow dolly comprising the fender of claim 1.

23. A trailer comprising a plurality of fenders of claim 1.

24. A tow dolly comprising a plurality of fenders of claim 1.

27. (Amended) The fender of claim 1 wherein said clearance increasing portion, said inner wall and said top portion each have a bottom edge, and wherein said entire bottom edge of said clearance increasing portion, said entire bottom edge of said inner wall and said entire bottom edge of said top portion all lie in a common plane.

28. (Thrice Amended) A fender having a longitudinal midline, said fender comprising:

a) a light housing mounted to said fender offset from said midline,

b) a top portion having opposed inner and outer edges and a bottom edge, wherein said top portion is curved radially downwardly in a longitudinal direction,

c) a clearance increasing portion having a bottom edge, said clearance increasing portion depending downwardly from said inner edge of said top portion at a non-zero acute angle in a first plane,

d) an inner wall having a bottom edge, said inner wall depending downwardly from said clearance increasing portion at a non-zero acute angle in a second plane, wherein said top portion and said inner wall are oriented substantially perpendicularly, wherein the first and second planes are non-coplanar and wherein said angle formed by said top portion and said clearance increasing portion, and the angle formed by said clearance increasing portion and said inner wall add up to approximately 90° , and

e) an outer wall having a bottom edge, said outer wall depending downwardly from said outer edge of said top portion,

wherein said entire bottom edge of said clearance increasing portion, said entire bottom edge of said inner wall, said entire bottom edge of said top portion and said entire bottom edge of said outer wall all lie in a common plane.

29. The fender of claim 17 wherein said fender has an external surface having a shape, and wherein said light housing comprises a base portion that conforms to at least a portion of the shape of the external surface of fender.

30. The fender of claim 29 wherein the light housing further comprises a raised portion adapted to receive a light fixture.

31. The fender of claim 17 further comprising an outer wall extending downwardly from the outer edge of the top portion.

32. The fender of claim 17 wherein the top portion further comprises a substantially flat middle section and two curved end sections.

33. The fender of claim 17 wherein the top portion comprises a plurality of planar sections.

34. A fender comprising:
a) a top portion having opposed inner and outer edges; and
b) a clearance increasing portion depending downwardly from said inner edge of said top portion, wherein said clearance increasing portion is concave.

35. A fender comprising:

- a) a top portion having opposed inner and outer edges; and
- b) a clearance increasing portion depending downwardly from

said inner edge of said top portion at a first non-zero acute angle, wherein said clearance increasing portion is concave.

36. A fender comprising:

- a) a top portion having a continuous curved upper surface and

opposed inner and outer edges;

- b) a clearance increasing portion depending downwardly from

said inner edge of said top portion at a first non-zero acute angle in a first plane, and

- c) an inner wall depending downwardly from said clearance

increasing portion at a second non-zero acute angle in a second plane, wherein said top portion and said inner wall are oriented substantially perpendicularly, and wherein the first and second plane are non-coplanar.

37. A fender having a uniform cross-section, the fender

comprising:

- a) a top portion having opposed inner and outer edges;

b) a clearance increasing portion depending downwardly from said inner edge of said top portion at a first non-zero acute angle in a first plane, and

c) an inner wall depending downwardly from said clearance increasing portion at a second non-zero acute angle in a second plane, wherein said top portion and said inner wall are oriented substantially perpendicularly, and wherein the first and second plane are non-coplanar.

38. A fender having a longitudinal midline and a uniform cross-section, the fender comprising:

a light housing mounted to the fender offset from the midline;

a top portion having opposed inner and outer edges;

a clearance increasing portion depending downwardly from said inner edge of said top portion at a first non-zero acute angle in a first plane, and

an inner wall depending downwardly from said clearance increasing portion at a second non-zero acute angle in a second plane, wherein said top portion and said inner wall are oriented substantially perpendicularly, and wherein the first and second plane are non-coplanar.

39. A fender having a longitudinal midline for use in conjunction

with a wheel, and a light housing mounted to said fender offset from said midline, said fender further comprising:

a) a top portion having a curved surface and opposed inner and outer edges, and wherein the light housing is attached to the curved surface of the top portion;

b) a clearance increasing portion depending downwardly from said inner edge of said top portion at a first non-zero acute angle in a first plane,

c) an inner wall depending downwardly from said clearance increasing portion at a second non-zero acute angle in a second plane, wherein said top portion and said inner wall are oriented substantially perpendicularly, and wherein the first and second plane are non-coplanar, and

d) an outer wall depending downwardly from said top portion, wherein the outer wall covers at least a part of the wheel.